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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,959	12/05/2001	Igor B. Peev	13768.219	2900

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EXAMINER
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RUTTEN, JAMES D

ART UNIT	PAPER NUMBER
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2192

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/005,959

**Applicant(s)**

PEEV ET AL.

**Examiner**

J. Derek Rutten

**Art Unit**

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 54-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Acknowledgement is made of Applicant's amendment dated 28 January 2005, responding to the 14 January 2005 Office action provided in the rejection of claims 1-29 and 54-57, wherein claims 17 and 23 have been amended, claims 30-53 and 58 have been canceled, and no new claims have been added. Claims 1-29 and 54-57 remain pending in the application and have been fully considered by the examiner.
2. Applicant's arguments, see paragraph 2 on page 12, filed 28 January 2005, with respect to the rejection(s) of claim(s) 1-29 and 54-57 under 35 U.S.C. § 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of U.S. Patent 6,324,693 to Brodersen.

### ***Response to Arguments***

3. Applicant argues in paragraph 2 on page 12, filed 28 January 2005 that the rejections of claims 1-29 and 54-57 under 35 U.S.C. § 103(a), based in part upon U.S. Patent 6,438,749 to Chamberlain (hereinafter "Chamberlain"), are not appropriate since Chamberlain was commonly assigned to Microsoft Corporation, the assignee of the present application, at the time of the invention and does not qualify as prior art. Applicant further submits that U.S. Patent 6,360,364 to Chen et al. (hereinafter "Chen"), used in the rejection of claim 8 under 35 U.S.C. 103(a) is also inappropriate since Chen was also commonly assigned at the time of the invention. Applicant is reminded that statements establishing common ownership of, or an obligation for

Art Unit: 2192

assignment to, the same person should be clear and conspicuous (e.g., on a separate piece of paper or in a separately labeled section). Nonetheless, applicant's statement is sufficient to disqualify Chamberlain and Chen as prior art, and the prior rejections under 35 U.S.C. 103(a) are withdrawn.

4. Applicant responds to the drawing objections under 37 CFR 1.83(a) on page 13.

According to 37 CFR 1.83(a), the drawings must show every feature of the invention specified in the claims. Applicant suggests that the access and decompression of compressed and uncompressed files (claims 7 and 8) can be found in Figure 4 element 401 ("Access at least a version of one or more files that are to be installed"), XML structured instructions (claim 10) and extraction instructions (claim 11) can be found in Figure 4 element 404 ("Access installation instructions"), and the pre-installation state (claim 20) and the backup up of the original file and configuration setting (claims 21 and 22) can be found in Figure 4 element 406 ("Construct rollback document"). These three drawing elements do not illustrate the 8 various limitations found in these claims, since these 8 limitations are not equivalent to the three respective generalized elements found in FIG. 4. This argument is not convincing.

5. In the last paragraph of page 13, applicants argue that Figures 1 and 2 should not be labeled "Prior Art" since they illustrate unique and novel features of the invention. However, the applicant's own specification provides a general description of Figure 1 on page 3 paragraph [0004] which appears in the "Background and Related Art" section of the originally filed specification. Further, Figure 2 simply shows a mobile computing device that does not appear to provide any unique or novel features of the invention. Paragraph [0047] on page 16 describes the figure as being "illustrative only", and "by no means represents even a small portion" of the

Art Unit: 2192

devices in which the invention could be implemented. As such, the mobile device of Figure 2 is merely one device that is old among many that can use the invention.

### *Drawings*

6. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the access and decompression of compressed and uncompressed files (claims 7 and 8), XML structured instructions (claim 10), extraction instructions (claim 11), the pre-installation state (claim 20), and the backup up of the original file and configuration setting (claims 21 and 22), must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure

Art Unit: 2192

must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Claim Rejections - 35 USC § 103*

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
9. Claims 1-7, 11-29, and 64-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Gain Control of Application Setup and Maintenance with the New Windows Installer" by Kelly (hereinafter "Kelly"), in view of U.S. Patent 6,324,693 to Brodersen et al. (hereinafter "Brodersen").

In regard to claim 1, Kelly discloses:

*an act of the mobile computing device accessing at least a version of at least one file that is to be installed on the mobile computing device; See page 5:*

The Windows installer is a registered server for files with a .MSI extension, so it is automatically invoked by the shell when a .MSI file is opened by a user. When invoked in this way, the installer reads product information from the installation database file and determines whether the product is already installed.

*an act of the mobile computing device accessing computer-executable installation instructions that define how the at least one file is to be installed on the mobile computing device, the installation instructions being directly interpretable by a configuration manager associated with the mobile computing device;* See page 5:

The installer also exposes an OLE Automation interface to allow administrators or developers to write Visual Basic or VBScript code that controls product installation.

Note that VBScript is an interpreted scripting language that is therefore interpreted by the installer.

*an act of the configuration manager causing the installation instructions to be executed;* See page 5:

If the product is not yet installed, it launches the product's installation sequence, which is described in the database.

*and*

*an act of the configuration manager causing a rollback document to be constructed.* See page 3:

All changes to the system configuration are done as a single installation transaction by the Install Service. The transaction provides for rollback of a failed or aborted installation. The rollback includes restoring the original contents of files replaced or deleted during the installation and restoring overwritten or deleted registry settings (such as COM class registration). Since this **rollback information** can take up a significant amount of space, an administrator or user can disable it during installation.

Kelly does not expressly disclose a mobile computing device. However, in an analogous environment, Brodersen teaches installing components on a mobile computing device. See column 4 lines 17-24:

Node 21-a is a remote computer system, such as a mobile client such as a laptop computer. Node 21-a includes a partially replicated remote database 23-a, update manager 31-a responsive to user input 33-a, docking manager 25-a and merge manager 27-a. In operation, update manager is responsive to user input 33-a to make changes to remote database 23-a as directed by the operator of node 21-a. Updates made are recorded, or journaled, in node update log 35-a.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Brodersen's teaching of a mobile computing device with Kelly's teaching of the "Windows Installer". One of ordinary skill would have been motivated to install software on a mobile computer in order to utilize the computer's processing power.

In regard to claim 2, the above rejection of claim 1 is incorporated. Kelly further discloses: *an act of the mobile computer device determining whether or not the installation instructions would be successful*. See page 3: "The transaction provides for rollback of a failed or **aborted** installation."

In regard to claim 3, the above rejection of claim 2 is incorporated. Kelly further discloses: *an act of querying a plurality of configuration service providers that would each perform some of the installation instructions as to whether or not the installation would be successful with respect to their corresponding installation instructions*. See Figure 1: Install Transaction, and Install Service.

In regard to claim 4, the above rejection of claim 3 is incorporated. Kelly further discloses that the installation of software can be accomplished using a plurality of installation modules as cited in the above rejection of claim 3. Kelly does not expressly disclose transactions. However, Brodersen teaches transactions that execute instructions as a whole in column 9 lines 10-27.



In regard to claim 5, the above rejection of claim 2 is incorporated. All further limitations have been addressed in the above rejection of claim 2.

In regard to claim 6, the above rejection of claim 2 is incorporated. All further limitations have been addressed in the above rejection of claim 4.

In regard to claim 7, the above rejection of claim 1 is incorporated. Kelly further discloses: *an act of the mobile computing device accessing a compressed version of the at least one file that is to be installed on the mobile computing device; and an act of the mobile computing device decompressing the compressed version of the at least one file that is to be installed on the mobile computing device.* See 4<sup>th</sup> paragraph on page 5: “compressed CAB files”. Decompression is an inherent component of installing a compressed file, otherwise the file would be unusable.

In regard to claim 11, the above rejection of claim 1 is incorporated. Kelly discloses installation of a system using compressed CAB files as disclosed in the above rejection of claim 7. This process inherently requires extraction, since files could not be installed without first being extracted from the CAB file.

In regard to claim 12, the above rejection of claim 1 is incorporated. Kelly further discloses examination of files including indications of replacement and deletion (See 3<sup>rd</sup>

paragraph on page 3), and further generally describes installation including moving files (See 2<sup>nd</sup> paragraph page 13).

In regard to claim 13, the above rejection of claim 1 is incorporated. All further limitations have been addressed in the above rejection of claim 12.

In regard to claim 14, the above rejection of claim 1 is incorporated. Kelly further discloses removing features and uninstalling applications, which all involve deleting files. See 5<sup>th</sup> paragraph on page 5.

In regard to claim 15, the above rejection of claim 1 is incorporated. Kelly further discloses restoring registry settings (3<sup>rd</sup> paragraph on page 3).

In regard to claim 16, the above rejection of claim 1 is incorporated. Kelly further discloses execution of instructions by the Windows installer service. See top of page 3.

In regard to claim 17, the above rejection of claim 1 is incorporated. Kelly further discloses an API which comprises numerous modules for execution of installation services and instructions. See pages 9-12.

In regard to claim 18, the above rejection of claim 17 is incorporated. Kelly further discloses use of the Windows 95, Windows 98, and Windows NT, all of which provide file configuration services.

In regard to claim 19, the above rejection of claim 17 is incorporated. Kelly further discloses use of the Windows 95, Windows 98, and Windows NT, all of which inherently registry configuration services.

In regard to claims 20-22, the above rejection of claim 1 is incorporated. Kelly further discloses pre-installation state, file backup, and configuration setting backup, all in the context of a rollback document. See 3<sup>rd</sup> paragraph page 3.

In regard to claim 23, Kelly discloses a computer program product. See last paragraph on page 2: "The new Windows installer". All further limitations have been addressed in the above rejection of claims 1 and 2.

In regard to claim 24, the above rejection of claim 23 is incorporated. Kelly does not expressly disclose physical storage media. However, Brodersen teaches physical storage media in column 3 lines 33-35.

In regard to claim 25, the above rejection of claim 23 is incorporated. All further limitations have been addressed in the above rejection of claim 1.

In regard to claim 26, the above rejection of claim 23 is incorporated. All further limitations have been addressed in the above rejection of claim 5.

In regard to claim 27, the above rejection of claim 23 is incorporated. All further limitations have been addressed in the above rejection of claim 6.

In regard to claim 28, Kelly discloses: *a step for installing the at least one file in a transacted manner using the configuration manager*. See page 3:

All changes to the system configuration are done as a single installation transaction by the Install Service. The transaction provides for rollback of a failed or aborted installation.

All further limitations have been addressed in the above rejection of claim 1.

In regard to claim 29, the above rejection of claim 28 is incorporated. All further limitations have been addressed in the above rejections of claims 1, 2, and 5.

In regard to claim 54, Kelly discloses:

*a field representing at least a version of at least one file to be installed*. See 5<sup>th</sup> paragraph on page 5:

Features and components for a product are described in the product's installation database. This is a file with a .MSI extension that contains all the installation information for a particular product, including the user interface displayed during the initial user installation of the product.

All further limitations have been addressed in the above rejection of claims 1 and 24.

In regard to claim 55-57, the above rejection of claim 54 is incorporated. All further limitations have been addressed in the above rejection of claims 7, 10, and 24, respectively.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly and Brodersen as applied to claim 1 above, and further in view of U.S. Patent 6,078,921 to Kelley (hereinafter “Kelley”).

In regard to claim 8, the above rejection of claim 1 is incorporated. Kelly does not expressly disclose access of an uncompressed file. However, Kelley teaches the distribution of an uncompressed file in column 6 lines 39-44. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Kelley’s teaching of uncompressed files with Kelly’s installer. One of ordinary skill would have been motivated to use uncompressed files in order to reduce the amount of processing required during installation.

11. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly and Brodersen as applied to claim 1 above, and further in view of U.S. Patent 6,687,873 to Ballantyne et al. (hereinafter “Ballantyne”).

In regard to claim 9, the above rejection of claim 1 is incorporated. Kelly does not expressly disclose: *instructions that are structured in accordance with a schema that*

*is interpretable by the configuration manager.* However, in an analogous environment, Ballantyne teaches that an XML schema can be used to define instructions. See Column 7 lines 42-46. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Ballantyne's teaching of schema's with Kelly's installation service. One of ordinary skill would have been motivated to define data elements associated with installation instructions.

In regard to claim 10, the above rejection of claim 1 is incorporated. All further limitations have been addressed in the above rejection of claim 9.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Derek Rutten whose telephone number is (571) 272-3703. The examiner can normally be reached on T-F 6:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2192

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jdr

  
**WEI Y. ZHEN**  
**PRIMARY EXAMINER**